

AMENDED IN SENATE MAY 23, 2008

AMENDED IN SENATE JULY 3, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY MAY 2, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1278

**Introduced by Assembly Members ~~Ma, Lieber, Lieber, Ma, and~~
Smyth**

February 23, 2007

An act to add Section 1670.7 to the Civil Code, ~~to amend Section 236.1 of,~~ and to add Section 784.8 to; the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 1278, as amended, ~~Ma~~ *Lieber*. Crimes.

Existing law provides that certain contract provisions are void as against public policy.

This bill would provide that any provision of a contract that purports to allow a deduction from a person's wages for the cost of emigrating and transporting that person to the United States would be void as against public policy.

~~Existing law defines the offense of human trafficking, including certain factual elements that establish the offense. Existing law provides that the offense of human trafficking is punishable by imprisonment in the state prison for 3, 4, or 5 years.~~

~~This bill would expand the scope of the offense of human trafficking to include causing, inducing, or persuading, or attempting to cause,~~

~~induce, or persuade, a minor under 18 years of age to engage in a specified felony or obtaining forced labor or services from the minor. The bill would also increase the penalty for human trafficking to imprisonment in the state prison for 3, 4, or 6 years.~~

~~By expanding the scope of an existing crime, this bill would impose a state-mandated local program.~~

Existing law provides jurisdiction over certain crimes in more than one territory if specified facts are shown.

~~This bill would provide jurisdiction over human trafficking offenses in multiple territories if it is shown the offenses were part of a single scheme, as specified require a local prosecutor to present evidence to the court, and would require the court to hold a hearing to consider, whether a matter involving human trafficking in multiple jurisdictions should proceed in the county of filing, or whether one or more counts should be severed, as specified. Because this bill would impose additional duties on local prosecutors, it would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1670.7 is added to the Civil Code, to
2 read:

3 1670.7. Any provision of a contract that purports to allow a
4 deduction from a person's wages for the cost of emigrating and
5 transporting that person to the United States is void as against public
6 policy.

7 ~~SEC. 2. Section 236.1 of the Penal Code is amended to read:~~

8 ~~236.1. (a) (1) Any person who deprives or violates the~~
9 ~~personal liberty of another with the intent to effect or maintain a~~

felony violation of Section 266, 266h, 266i, 267, 311.4, or 518, or to obtain forced labor or services, is guilty of human trafficking.

(2) If the victim is under 18 years of age at the time of the commission of the offense, any person who causes, induces, or persuades, or attempts to cause, induce, or persuade, the victim to engage in a commercial sex act as described in Section 266, 266h, 266i, 266j, 267, 311.4, or 518, subdivision (b) of Section 647, or Section 653.22, or who obtains or attempts to obtain forced labor or services from the victim, is guilty of human trafficking.

(b) Except as provided in subdivision (c), a violation of this section is punishable by imprisonment in the state prison for three, four, or six years.

(c) A violation of this section where the victim of the trafficking was under 18 years of age at the time of the commission of the offense is punishable by imprisonment in the state prison for four, six, or eight years.

(d) (1) For purposes of this section, unlawful deprivation or violation of the personal liberty of another includes substantial and sustained restriction of another's liberty accomplished through fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

(2) Duress includes knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the victim.

(e) For purposes of this section, "forced labor or services" means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, or coercion, or equivalent conduct that would reasonably overbear the will of the person.

(f) The Legislature finds that the definition of human trafficking in this section is equivalent to the federal definition of a severe form of trafficking found in Section 7102(8) of Title 22 of the United States Code.

SEC. 3.

SEC. 2. Section 784.8 is added to the Penal Code, to read:

784.8. When more than one violation of Section 236.1 occurs in more than one jurisdictional territory, and the offenses are part

1 of a single scheme, the jurisdiction of any of those offenses is in
2 any jurisdiction where at least one of the offenses occurred.

3 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution because~~
5 ~~the only costs that may be incurred by a local agency or school~~
6 ~~district will be incurred because this act creates a new crime or~~
7 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
8 ~~for a crime or infraction, within the meaning of Section 17556 of~~
9 ~~the Government Code, or changes the definition of a crime within~~
10 ~~the meaning of Section 6 of Article XIII B of the California~~
11 ~~Constitution.~~

12 *784.8. When charges alleging multiple violations of Section*
13 *236.1 that involve the same victim or victims in multiple territorial*
14 *jurisdictions are filed in one county pursuant to this section, the*
15 *court shall hold a hearing to consider whether the matter should*
16 *proceed in the county of filing, or whether one or more counts*
17 *should be severed. The district attorney filing the complaint shall*
18 *present evidence to the court that the district attorney in each*
19 *county where any of the charges could have been filed has agreed*
20 *that the matter should proceed in the county of filing. In*
21 *determining whether all counts in the complaint should be joined*
22 *in one county for prosecution, the court shall consider the location*
23 *and complexity of the likely evidence, where the majority of the*
24 *offenses occurred, the rights of the defendant and the people, and*
25 *the convenience of, or hardship to, the victim and witnesses.*

26 *SEC. 3. If the Commission on State Mandates determines that*
27 *this act contains costs mandated by the state, reimbursement to*
28 *local agencies and school districts for those costs shall be made*
29 *pursuant to Part 7 (commencing with Section 17500) of Division*
30 *4 of Title 2 of the Government Code.*